

**MINUTES**  
**Board of Zoning Appeals**  
**March 10, 2020**

The Wyoming Board of Zoning Appeals met on March 10, 2020 at 6:00 p.m. in the Council Chambers at the City Building. Mr. Charlie Jahnigen, Chair, called the meeting to order at 6:00 p.m. Attendance was as follows:

**MEMBERS:**

Charlie Jahnigen, Chair  
John Braun  
Jennifer Eismeier  
Bob Kearns  
Jeff LeRoy

**STAFF:**

Megan Statt Blake, Community Development Director  
Tana Pyles, Community Development Specialist

**Minutes:**

Mr. LeRoy moved to approve the minutes of the February 11, 2020 meeting as amended. Mr. Kearns seconded the motion. By voice vote, all voted yes, the motion carried.

Mr. Jahnigen directed the Members that moving forward; the Members will review each item in Section 1137.04 of the Zoning Code as they apply to each case in order to determine whether all items have been addressed. These items are:

- (1) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owners of other properties in the same area;
- (2) That exceptional or extraordinary circumstances or conditions apply to the subject property that do not apply generally to other properties in the same area;
- (3) That the essential character of the neighborhood would not substantially be altered;
- (4) That adjoining properties would not suffer a substantial detriment as a result of the variance;
- (5) That the variance would not adversely affect the delivery of governmental services, (e.g. water, sewer, garbage, police protection, fire protection);
- (6) That the special circumstances or conditions do not result from any action of the property owner or any of the property owner's predecessors in title;
- (7) That the property owner's request for a variance cannot feasibly be obviated through some method other than a variance; and
- (8) That the spirit and intent behind the zoning requirement affecting the area would be observed and substantial justice done by granting the variance.

The dialogue at each hearing shall reflect that each of the eight items have been addressed by the Members. Additionally, Mr. Jahnigen stated that the burden of proof shall be on the applicant and that public sentiment shall not be the basis for the Board's decision on a case. The Board's decisions on a case must be made on the facts of the case as provided by the applicant.

Mr. Jahnigen explained that when applicants request a variance they are essentially asking permission to not follow the law. Ms. Statt Blake added that if an applicant were to appeal a decision made by the Board, they would do so through the Hamilton County Court of Common Pleas. In the nine years, she has been with the City no cases have been appealed to the higher court. If a case were to be heard before the Court of Common Pleas, most likely the judge will look at the Wyoming's Code and the facts of the case and determine if the process taken matched the Code. Municipalities are held accountable when their stated processes are not followed.

**220 Crescent Avenue, Case #4-20, Lot Width Issue**

Ms. Statt Blake provided the background of the case. This property is part of the Housing Infill Project sponsored by the City of Wyoming's Economic Development Commission (EDC) and Community Improvement Corporation (CIC). 220 Crescent Avenue is the first of four lots to be developed with single-family residences by Homewood Development, the CIC's preferred developer. The CIC acquired this property from the Hamilton County Land Reutilization Corporation (AKA Landbank) in 2019. Previously, the property had a significantly dilapidated house on it, which the prior resident/owner had demolished in 2013.

The lot is 50' wide by approximately 176' deep, and is located in the 'A' Single-Family Residence District. Section 1155.04(d) of the Zoning Code requires a minimum average width of 60'; therefore, a variance must be obtained in order to build the proposed residence on the lot. For context, the majority of the lots on this block of Crescent Avenue are 50' wide or less. All other zoning requirements, including, but not limited to, lot area, setbacks, height, and parking are expected to be met.

Ms. Statt Blake added that the Architectural Review Board has recommended relief from the Code pertaining to the required lot width of 60'.

Mr. Jim Tinkham, Homewood Development, was present and commented that Ms. Statt Blake has provided a thorough review of the case background. He has participated in several board, committee, and commission meetings prior to this evening in order to provide the best possible house design to compliment the neighborhood.

Mr. Jahnigen asked Ms. Statt Blake if the City has received any feedback from the adjoining property owners. Ms. Statt Blake reported that she spoke on the phone with two neighbors from Crescent Avenue in which they provided positive feedback. The questions were primarily curiosity-based regarding plans for the lot.

Mr. Kearns asked if the Board has heard similar cases such as this and if this is setting any precedence. Ms. Statt Blake stated that she does not recall any demolition/rebuilds requiring lot width variances in this neighborhood.

Ms. Eismeier commented that she appreciates that the design of the proposed home has the garage placed behind the house to be in keeping with the existing homes on the street. Ms. Eismeier asked Ms. Statt Blake if Mr. Tinkham is the preferred builder of the other infill properties, and Ms. Statt Blake confirmed he is and the Crescent Avenue property is the first of the four proposed homes. Ms. Statt Blake added that Mr. Tinkham would likely be returning to the Board to request relief from the side property line setback on one of the two proposed homes on Oak Avenue and relief from the front property line setback on the other Oak Avenue home.

There being no further questions or comments from the Board, the members confirmed that the provisions of Section 1137.04 were addressed. Ms. Eismeier moved to grant the request for variance as submitted. Mr. LeRoy seconded the motion. By roll call vote, all voted yes, the motion carried.

### **Miscellaneous**

Ms. Statt Blake reported that the Board is expected to have one case for the April meeting. The project involves an addition to a home located in the Historic District. The request is being reviewed in tandem with the Architectural Review Board and the Historic Preservation Commission, due to the nature of the proposed alteration.

Mr. Jahnigen asked for a status report on the home at the corner of Stearns and Burns Avenues that had been granted a variance last year and whether the project is expected to move forward soon. Ms. Statt Blake commented that she has been in contact with Rod Sidley, the architect for the project, and he indicated that the homeowners intend to complete the project following a planned delay.

Mr. Jahnigen recognized Mr. Braun for his many years of service to the Board of Zoning Appeals. This will be Mr. Braun's last meeting as he anticipates a move out of the community this summer. Mr. Braun has served on the Board since 2003. Mr. Jahnigen reported that a new member has been selected to replace Mr. Braun and as such, this will be his last meeting. Mr. Jahnigen commented that he would not forget the things that Mr. Braun stood for when deliberating cases and the respect shown for applicants and fellow

Board members.

Mr. Braun explained that he and his wife would be moving to Maple Knoll Village as soon as their unit is finished being remodeled. He stated that he has enjoyed his time serving the community but mostly he has enjoyed working with an appellant to revise a plan if it appears as though it may not be favorably voted on by the Members. Mr. Braun thanked the Members for making his job easier and for enabling him to see things from different perspectives that he may not have seen otherwise. Lastly, Mr. Braun stated that old soldiers never die, they just fade away. He wished everyone good luck.

**Adjourn**

There being no further business before the Board, Mr. LeRoy moved to adjourn the meeting. Mr. Kearns seconded the motion. By voice vote, all voted yes, the motion carried. The meeting adjourned at 6:25 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair